

(2010) 03 JH CK 0048
In the Jharkhand High Court

Azad Ansari and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 12-03-2010

Acts Referred:

Citation : (2010) 03 JH CK 0048

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—Heard counsel for the parties.

2. Petitioners in this writ application have prayed for a direction upon the respondents to appoint them to the post of Panchayat Sevak by giving them the benefit of age relaxation as recommended by the Selection Committee in its report dated 01.09.2006.

The grievance of the petitioners is that though juniors to the petitioners in the gradation list have been granted appointments, the petitioners have been arbitrarily left out.

The petitioners in this context have prayed for quashing the letter No. 310 dated 22.03.2007 (Annexure-8) issued by the Respondent No. 2 which, according to the petitioners, is purportedly a letter rejecting the claim of the petitioners.

3. I have gone through the Annexure-8 which is a copy of the letter dated 22.03.2007 addressed to the Deputy Commissioner, Godda by the Director, Panchayati Raj. The letter is in the context of the recommendations made by the Selection Committee and it seeks informations as to whether such of the Dalpatis who have crossed the upper age limit even after granting the age relaxation of five years, are fit to be appointed to the post of Panchayat Sevaks and in this context the letter seeks information as to whether there is any order passed by the High Court under which such persons who have crossed the upper age limit even by adding the five years by way of relaxation are to be appointed to the post of Panchayat Sevaks.

4. It is apparent from a bare perusal of the impugned letter that it does not contain any positive decision either accepting or rejecting the petitioners' claim for their appointment and merely quashing the letter in itself will not answer the grievances of the petitioners.

5. However, considering the main claim of the petitioners who have sought for their appointment to the post of Panchayat Sevaks, the other facts which appear in the several paragraphs of the writ application need to be taken into consideration.

6. The petitioners were admittedly appointed on the post of Dalpatis in between 1988 to 1990. In course of time, each of the petitioners had gained eligibility for their appointment to the post of Panchayat Sevaks. It appears however that the concerned department did not promptly undertake any exercise for appointment of the Dalpatis to the post of Panchayat Sevaks and being aggrieved, the Dalpatis had filed writ applications before this Court. While disposing of the writ applications, this Court had directed the concerned authorities of the respondents to promptly undertake the exercise for appointment. When the matter was being delayed despite the Court's order, contempt applications were filed. It was only by way of their reaction to the contempt applications that the concerned authorities of the respondents referred the cases of the Dalpatis to the Selection Committee. Such reference was made sometime in the year 2006.

The Selection Committee in its turn, considered and examined the cases of each of the Dalpatis and had categorized them into two different groups. One group comprised of such Dalpatis who did not cross the upper age limit of 42 years including the relaxed period of five years and the second group comprised of those who had crossed the age of 42 years. It also appears from the report of Selection Committee that while recommending the case of the Dalpatis for their appointment, the Selection Committee had considered it proper to fix a cut of date of January, 2002 for assessing the upper age of the candidates. An explanation has been given in the Selection Committee's report that the cut of date has been fixed in the light of the orders passed by this Court in several writ applications and also considering the fact that there has been a considerable delay on the part of the concerned department of the State Government to take up the cases of the Dalpatis for their appointment.

7. In response to the recommendation of the Selection Committee, the Director, Panchayati Raj had sought informations from the Deputy Commissioner, Godda by letter dated 09.10.2006 (Annexure-C to the counter affidavit) regarding the specific orders if any, passed by this Court in any of the earlier writ applications on the basis of which the cut of date was fixed as January, 2002 and also whether those candidates who had already crossed the upper age limit of 42 years, even by way of relaxation of age, are still eligible for their promotion. When the information sought for was not made available, the Director, Panchayati Raj by his letter dated 23.05.2007, had declared that such candidates who had already crossed the upper age limit of 42 years even after granting the

relaxation of upper age limit, are not eligible for their appointment.

8. Learned counsel for the petitioners fairly concedes that there is no specific order passed by this Court in any of the earlier writ applications fixing January, 2002 as the cut of date. However, learned Counsel would argue that the Selection Committee has rightly fixed the cut of date in view of the fact that it was the concerned department of the State Government which had caused the delay thereby causing prejudice and serious detriment to the Dalpatis who were all along aspiring for their appointment and but for the inaction of the concerned authorities of the department, the petitioners would have benefited by their appointment.

9. As it appears from the documents on record, though the Selection Committee has proposed to fix a cut of date and also made its recommendation on the basis of the cut of date and further, though it has assigned reasons for fixing the cut of date but as it appears, the final authority on this issue rested with the concerned department of the State Government in view of the fact that it was only a recommendation of the Selection Committee which could not be said to be binding upon the State Government.

10. Under such circumstances, since admittedly on the date when the recommendation of the Selection Committee was made and the same was considered by the concerned department in June, 2006, the petitioners had already crossed the upper age limit of 42 years even by way of extending the relaxation of five years to them. In this view of the matter, the petitioners cannot possibly maintain any further grievance over refusal of the concerned authorities to appoint them to the post of Panchayat Sevak.

11. It is however informed by the counsel for the petitioner as also affirmed by the counsel for the respondent State that the State Government in the concerned department has issued a circular which has been notified as Circular No. 10 dated 06.01.2010 under which a decision has been taken to fix the maximum age limit for appointment of Dalpatis to the post of Panchayat Sevak as 55 years. If this is so, then the petitioners, if they have not already crossed the age of 55 years as on today, may stake their claim afresh for their appointment to the post of Panchayat Sevaks and submit their representation before the concerned authorities of the respondents for their appointment. The concerned authorities of the respondents shall, within three months from the date of receipt of the representations, take an appropriate decision on the petitioners' prayer for their appointment and in the process, shall also take into consideration the recommendation which the Selection Committee had earlier made in favour of the petitioners and also the recent circular of the State Government regarding fixing of the upper age limit. The decision so taken on the representations of the petitioners shall be communicated to the petitioners effectively.

With these observations, this writ application is disposed of.

Let a copy of this order be given to the counsel for the respondent State.